

MAY/JUNE 2004

CALIFORNIA FRANCHISE TAX BOARD

VCI program ends in April with impressive results

Our Voluntary Compliance Initiative ended on April 15, 2004, but not before more than 750 individuals and 370 businesses took advantage of it and reported the taxes they owed as a result of their participation in potentially abusive tax shelters. In total, taxpayers reported more than \$1.3 billion in taxes owed.

Our work is not over. We will continue to aggressively enforce the laws against investors and promoters of abusive tax shelters. In the future you can expect our compliance efforts to focus on educating taxpayers and tax professionals about abusive tax shelters and to discourage the investment in, and the development and marketing of, abusive tax shelters.

We will continue with our partnership with the Internal Revenue Service and 44 other state agencies to obtain information and conduct joint audits of investors and promoters of abusive tax shelters. Our compliance activities will address investors and promoters and will focus on the following activities:

- Audit engagements.
- Criminal investigations.
- Issuance of subpoenas.
- Maximum penalty application.
- Enforcing reporting requirements for promoters and investors.
- Seeking injunctions against promoters.

For more information about abusive tax shelters, check our Website at www.ftb.ca.gov.

Homeowner & renter program gets new form, contact number

The 2004 Homeowner and Renter Assistance program (HRA) filing season is fast approaching and we have made some important changes that will make it easier for your clients to get information and file their claims.

- Effective June 15, 2004, our new HRA telephone number will be (800) 868-4171.

- We changed the form number for the Homeowner Assistance Claim from FTB Form 9000 to FTB Form 9000H. The form number for Renter Assistance Claim, FTB Form 9000R, did not change.

Claims should be filed between July 1 and October 15, 2004. Due to budget constraints, claims processed after that date could be delayed significantly. Therefore, we strongly urge you to advise your clients to file by October 15, 2004.

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Web Pay

Web Pay is the fast, safe, and efficient way for your clients to pay their personal income taxes online.

With Web Pay, your customers can make the following types of payments online:

- Estimated tax.
- Bill.
- Return.
- Extension.

www.ftb.ca.gov

Find us online



www.ftb.ca.gov

Tax News

Volume 04-3 May/June 2004

Tax News is a bimonthly publication of the Communications Services Bureau of the California Franchise Tax Board. Our primary objective is to provide information to income tax practitioners about state income tax laws, regulations, policies and procedures.

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Tax Practitioner Services

Our Tax Practitioner Support Unit is available from 8 a.m. to 5 p.m., Monday through Friday. Our telephone number is (916) 845-7057. You can send us a fax 24 hours a day, seven days a week. Our fax number is (916) 845-6377.

Hearing Impaired
TDD (800) 822-6268

Abusive tax shelter users can apply for penalty relief

The California Legislature last year enacted Senate Bill 614 and Assembly Bill 1601 to address the rising problem of abusive tax shelters and transactions. As part of this new legislation, there are new and enhanced penalties for taxpayers who used an abusive tax shelter or transaction to underreport their income tax liability as well as penalties for promoters/organizers and sellers of abusive tax shelters.

The legislation also provides taxpayers a way to request relief from some of these penalties from our Chief Counsel. These Chief Counsel penalty relief provisions apply to the following penalties only:

R&TC Section	Penalty
19173	Failure to register or maintain investor list
19179	Frivolous return penalty
19179	Frivolous submission penalty
19772	Failure to disclose reportable transaction penalty
19773	Reportable transaction understatement penalty
19774	Noneconomic substance transaction understatement penalty

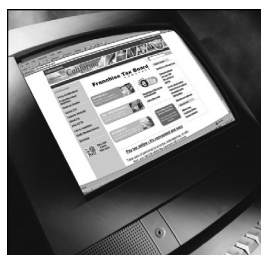
The new provision applies to penalties imposed after January 1, 2004. To request penalty relief, complete Form FTB 626, *Request for Chief Counsel to Relieve Penalties*, and mail it to our Chief Counsel using the address provided on the form. Forms and other information concerning tax shelters and related penalties are available on our Website at www.ftb.ca.gov.

FTB's Secure Electronic Communications

Do you know that you can get information from us regarding an audit or legal case you are working on instantaneously? Avoid the slow mail process -- use our fast Secure Electronic Communications system -- and it's FREE!

Our Secure Electronic Communications system provides for the exchange of confidential documents without compromising your clients' privacy or security. It's easy to use, requires no special hardware or software, and is available 24/7.

All you need is a browser that supports 128-bit encryption and the latest virus protection software. To get started, simply tell your Franchise Tax Board Audit or Legal staff contact that you want to use our Secure Electronic Communications system. We will initiate the registration process and send you information about how to use the system.



2003 Tax Forms

Updates & Revisions Available Online

www.ftb.ca.gov

Update to service counter closures

As you may be aware, we closed 10 of our public service counters on February 1, 2004, due to the state's budget reductions. The lobby hours for both the open and closed public counters are 8 a.m. to 5 p.m. Monday through Friday. The lobbies are closed on state holidays. Walk-through revivor service is provided at all open public service counters. In the field offices where the public service counters are closed, you can still:

- Obtain tax forms and publications.
- Contact our customer service call centers by phone.

Closed public service counters are located in:

- | | |
|------------------|---------------|
| • Bakersfield | • Santa Rosa |
| • Fresno | • Stockton |
| • Long Beach | • Van Nuys |
| • San Bernardino | • Ventura |
| • San Jose | • West Covina |

Open public service counters are located in:

- | | |
|--|--|
| • Los Angeles Field Office
300 S. Spring Street
Suite 5704
Los Angeles CA 90013 | • San Diego Field Office
7575 Metropolitan Drive
Suite 201
San Diego CA 92108 |
| • Oakland Field Office
1515 Clay Street
Suite 305
Oakland CA 94612 | • Santa Ana Field Office
600 W. Santa Ana Blvd
Suite 300
Santa Ana CA 92701 |
| • Sacramento Field Office
3321 Power Inn Road
Suite 250
Sacramento CA 95826 | • San Francisco Field Office
Rincon II Annex
121 Spear Street
Suite 400
San Francisco CA 94105 |

Lawmakers seek tax amnesty, conformity

Among the measures recently introduced or amended in the California Legislature are assembly (AB) and senate (SB) bills proposing tax amnesty programs. There are bills affecting credits, conformity, net operating losses, and exclusions, as well as several Franchise Tax Board sponsored bills.

These are only summaries. If you want to learn more about a legislative measure you read about here, go to our Law and Legislation Webpage located on our Website, www.ftb.ca.gov. You also can find comprehensive information about all legislative measures on the Internet at www.leginfo.ca.gov, the Official California Legislation Information Website.

Amnesty

AB 2203 (Chu)

This bill would create an amnesty program for certain taxpayers that have done any of the following:

- 1) Failed to file income tax returns.
- 2) Underreported income on a previously filed income tax return.
- 3) Failed to pay any taxes previously assessed.

Conformity

AB 2315 (Maldonado)

This bill would allow the same deduction on California returns for contributions to a health savings account as is allowed on the federal return.

AB 2981 (McCarthy)

This bill would make our Revenue and Taxation Code conform to the Federal Jobs and Growth Tax Relief Reconciliation Act of 2003, and the first year bonus depreciation/increase maximum amount of expense deduction.

SB 1713 (Machado)

This bill would conform California law to the changes made by the federal Military Family Tax Relief Act of 2003.

SB 615 (Cedillo)

This bill would make California law compatible with the federal Servicemembers Civil Relief Act (SCRA) (PL 108-189) that was enacted on December 19, 2003.

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Proposed legislation: credits, deductions

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Credits

AB 1830 (Cohn)

This bill would create a refundable income tax credit for wages paid in connection with the production of a motion picture in California.

AB 2230 (Corbett) and SB 1572 (Alpert)

This bill would provide new tax incentives to certain life science companies: an investment credit, a wage credit, the ability to sell and purchase net operating losses, and a special apportionment formula.

AB 2325 (Bates)

This bill would provide employers a tax credit for wages paid to disabled employees.

AB 2365 (Correa)

This bill would create a manufacturing jobs credit.

AB 2794 (McCarthy)

This bill would provide a tax credit and an accelerated depreciation deduction to qualified small refiners making capital expenditures necessary to comply with federal law relating to the production of low sulfur diesel fuel.

AB 2801 (Horton)

This bill would reinstate the California Jobs tax credit.

SB 1052 (Senate Budget Committee)

This bill would prohibit the issuance of Natural Heritage Preservation tax credits, unless the General Fund is reimbursed for the amount of the credit.

Deductions

AB 263 (Oropeza)

This bill would specify how to apply the tax statute allowing a deduction for dividends received from an insurance company after the statute was found unconstitutional in the *Ceridian* decision.

AB 1338 (Chavez)

This bill would:

- Modify the real estate withholding provisions to more closely match the actual tax due on the sale of real property.
- Broaden the principal residence withholding exemption to include the sale of a residence that was last used prior to the sale as the taxpayer's principal residence.
- Exempt from withholding the sale of real property sold by licensed general contractors if the property was held for sale as inventory in the taxpayer's construction business.

Disasters

SB 438 (Soto)

This bill would allow taxpayers special tax treatment, called disaster loss treatment, for losses sustained as a result of the Southern California wildfires, losses related to the wildfires, and the San Simeon earthquake.

Electronic filing

AB 2480 (Campbell)

This bill would repeal a penalty provision for tax practitioners that are required to e-file individual income tax returns and add an identical penalty provision to be operative at a later date.

Exclusions

AB 1073 (Dutton)

This bill would exclude from tax the death gratuity paid to the survivor of a deceased member of the Armed Forces of the United States.

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Proposed legislation: FTB-sponsored bills

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AB 2061 (Haynes)

This bill would expand both the number and quality of contacts that a business or individual can have in California before becoming obligated to pay tax.

Franchise Tax Board - sponsored bills

AB 1260 (Matthews)

This Franchise Tax Board-sponsored bill would specify that:

- Under the Revenue and Taxation Code it is a crime to fraudulently aid, abet, or obtain a state-issued income tax refund, in any form, including direct deposit refunds.
- We may recoup related investigative costs.

AB 3071 (Assembly Revenue and Taxation Committee)

This bill would remove an erroneous statutory reference relating to relief from joint and several liability.

AB 3072 (Assembly Revenue and Taxation Committee)

This bill would conform California law to the federal claim of right provisions.

AB 3073 (Assembly Revenue and Taxation Committee)

This bill would specifically exclude the annual payments of the *LIFO* recapture tax from being included in the definition of *estimated tax* and therefore subject to an underpayment penalty based on the estimated tax rules.

SB 1172 (Ackerman)

This bill would provide expressly that California is conformed to federal statutes that limit or preempt California's ability to tax the California source income of specified nonresidents.

SB 1571 (Alpert)

This bill would modify the statutes regarding Subpart F and U.S.-source income to:

- Specify that a controlled foreign corporation that is a California taxpayer or that has income from a U.S. source cannot exclude its Subpart F income from a water's-edge combined report.
- Coordinate existing laws so that the U.S.-source income rules and the Subpart F income rules would operate simultaneously and apply consistently to corporations regardless of whether they are California taxpayers.
- Require us to issue regulations to resolve problems relating to potential double taxation of U.S.-source and Subpart F income.

SB 1277 (Ackerman)

This bill would exempt non-corporate taxpayers from withholding on California real property received as a result of a foreclosure sale or in lieu of foreclosure.

Manufacturers' Investment Credit

AB 1998 (Dutton), AB 2070 (Houston), AB 2076 (Dutton), and SB 1295 (Morrow)

This bill would reinstate the previous Manufacturers' Investment Credit.

Marriage

AB 1967 (Leno)

This bill would change the definition of marriage to a civil contract between two persons, which could be interpreted to allow persons in a same-sex marriage to file a joint income tax return and be treated as spouses for state income tax purposes.

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Proposed legislation: military, tax forms

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Military

AB 2792 (Oropeza)

This bill would allow a carryover credit to qualified reservists (defined as members of the National Guard or the military reserves) that experience a loss of income during the taxable year they served in active duty.

S corporations

SB 1237 (Hollingsworth)

This bill would provide limited transitional tax relief for corporations that were required by 2002 legislation to be S corporations.

Tax court

AB 2472 (Wolk) and SB 1424 (Burton)

This bill would create the California Tax Court to hear and determine taxpayer appeals from deficiency assessments made by the State Board of Equalization and us, sales and use tax determinations, and specified insurance tax determinations made by the Department of Insurance.

Tax forms

SB 1534 (Johnson)

This bill would require us to provide taxpayers with the option of using a specific income tax form (540 2EZ) that they otherwise would not qualify to use.

Tax Rates

AB 1815 (Chan)

This bill would increase the top personal income tax rate from 9.3 percent to 10 percent and 11 percent, and would increase the alternative minimum tax rate from 7 percent to: 8.5 percent.

Voluntary contributions

These bills would create funds to which individual taxpayers would be allowed to designate contributions to.

AB 214 (Horton)

Veteran's Quality of Life Fund

AB 1283 (Kehoe)

California Arts Council Fund

AB 1799 (Mullin)

California Alzheimer's Disease and Related Disorders Research Fund. This bill would extend the repeal date for this fund.

AB 1928 (Parra)

California Military Family Relief Fund

AB 2346 (Corbett)

California Police Activities League Fund

AB 2886 (Corbett)

Drug Abuse Resistance Education Fund

SB 1162 (Machado)

California Military Family Relief Fund

SB 1433 (Romero)

Trauma Care Fund

SB 1736 (Bowen)

This bill would create a new process to allow taxpayers to make voluntary contribution designations on the personal income tax return.



Interest Rates

For the period of July 1, 2004, through December 31, 2004, the adjusted interest rate on underpayments of California personal income tax, and, corporate income and franchise taxes will be four percent. The interest rate on corporation overpayments for the same period will be one percent.

Here is an index of the interest rates for personal income taxes over the last 10 years.

Effective Date			Rate
1 Jan. 1994	to	30 June 1994	7%
1 July 1994	to	31 Dec. 1994	7%
1 Jan. 1995	to	30 June 1995	8%
1 July 1995	to	31 Dec. 1995	9%
1 Jan. 1996	to	30 June 1996	9%
1 July 1996	to	31 Dec. 1996	9%
1 Jan. 1997	to	30 June 1997	9%
1 July 1997	to	31 Dec. 1997	9%
1 Jan. 1998	to	30 June 1998	9%
1 July 1998	to	31 Dec. 1998	9%
1 Jan. 1999	to	30 June 1999	8%
1 July 1999	to	31 Dec. 1999	7%
1 Jan. 2000	to	30 June 2000	8%
1 July 2000	to	31 Dec. 2000	8%
1 Jan. 2001	to	30 June 2001	9%
1 July 2001	to	31 Dec. 2001	9%
1 Jan. 2002	to	30 June 2002	7%
1 July 2002	to	31 Dec. 2002	6%
1 Jan. 2003	to	30 June 2003	6%
1 July 2003	to	31 Dec. 2003	5%
1 Jan. 2004	to	30 June 2004	5%
1 July 2004	to	31 Dec. 2004	4%

Contact us for e-file CD-ROM

In December we began mailing the e-file CD-ROM to all approved California e-file participants. Did you get yours? It contains the *2003 e-file Handbook* (FTB Pub. 1345), *2003 e-file Handbook Supplement* (FTB Pub. 1345A), *e-file Quick References* and other resource information.

This is our second year of providing the publications on CD-ROM instead of paper. Does the CD-ROM meet your needs? Tell us what you think by sending an email to e-file@ftb.ca.gov. Include CD-ROM in the subject line. If you did not receive your CD-ROM and would like to request one, please send your request to the email address indicated above.

TeleFile to end in 2005

We will no longer offer TeleFile as a filing option, effective January 2005. The main reasons are declining participation and increasing costs. For example, more than 10,000 taxpayers who used TeleFile in 2003 switched to e-file or NetFile this filing season.

We created TeleFile in 1996 as a way for eligible taxpayers to conveniently file their state personal income tax returns by telephone, and to reduce the costs associated with labor-intensive paper processing. Though TeleFile remains convenient for many taxpayers, in recent years the cost to maintain and operate the program has steadily increased.

You can e-file through October 15, 2004

You can still e-file your clients' California tax returns during the six-month extension period following the April 15, 2004, deadline. We accept both refund and balance due returns through October 15, 2004, (Note: The extended due date for the Internal Revenue Service is August 16, 2004.) Please remember that your clients must have paid any taxes owed on or before April 15, 2004, to avoid penalties and interest.

If you are not yet an approved Electronic Return Originator (ERO) and want to e-file your clients' tax returns,

you must first enroll with the Internal Revenue Service. Once you have your Electronic Filer Identification Number (EFIN), complete and submit the *California e-file Program Enrollment Form* (FTB Form 8633) online at www.ftb.ca.gov, search for: e-file.

There's nothing to mail. You will be enrolled within 48 hours and generally can begin submitting e-file returns at that time. You will receive confirmation from us by mail within seven days.

Tax Practitioner Services & Holiday Calendar

Tax Practitioner Hotline

Telephone 916.845.7057
Fax 916.845.6377

Personal Income Tax Collection

Fax 916. 845.0494

Business Entities Collection

Fax 916. 845.0145
FTB e-file Help Desk
Telephone 916. 845.0353

The Tax Practitioner Hotline is open Monday through Friday, 8 a.m. to 5 p.m. The Hotline is not open on weekends and state holidays.

2004 Official California State Holidays

Thursday, January 1, 2004
New Year's Day

Monday, January 19, 2004
Martin Luther King Jr. Day

Thursday, February 12, 2004
Lincoln's Birthday

Monday, February 16, 2004
Washington's Birthday (observed)

Wednesday, March 31, 2004
Cesar Chavez Day

Monday, May 31, 2004
Memorial Day

Monday, July 5, 2004
Independence Day (observed)

Monday, September 6, 2004
Labor Day

Monday, October 11, 2004
Columbus Day

Thursday, November 11, 2004
Veteran's Day

Thursday, November 25, 2004
Thanksgiving Day

Friday, November 26, 2004
Day after Thanksgiving

Saturday, December 25, 2004
Christmas Day

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